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Attorneys for Plaintiff
Bestway Inflatables & Material Corp.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BESTWAY INFLATABLES &
MATERIAL CORP.,

Plaintiff,

v.

JOHN/JANE DOE 1-10,

Defendants.

CASE NO.:3:21-cv-5119

COMPLAINT

NOW COMES Plaintiff BESTWAY INFLATABLES & MATERIAL CORP.
("Bestway"), by and through its attorneys, DICKINSON WRIGHT PLLC, and for its Complaint
against John/Jane Doe 1-10, states:

INTRODUCTION

1. This case arises out of the unauthorized use and infringement of multiple
trademarks owned and used by Bestway. In violation of federal and state law, Defendants
established a website claiming to sell Bestway products, including above ground swimming pools
that have been in high demand since the COVID-19 pandemic caused many people to stay home.
Defendants, as the owners and/or creators of the infringing site, are taking advantage of the

increased demand by claiming to sell Bestway products. At this time, it is unknown whether customers receive anything in exchange for payment, but on information and belief they do not receive authentic Bestway products given that the majority of the prices listed on the website are lower than the costs to manufacture the products. Defendants have gone out of their way to trick customers into believing Bestway operates or is otherwise associated or affiliated with the website, including using the Bestway name/mark in the URL of the site (bestway-outlet.store), using the Bestway logo/mark, and using multiple Bestway marks pertaining to individual products as described in more detail below. As a result, unwitting consumers are being duped into believing they are entering into legitimate transactions with Bestway or to purchase genuine Bestway products. Unless the Court intervenes, the harm to Bestway and the public at large will continue unabated.

JURISDICTION AND VENUE

2. Bestway is a corporation organized under the laws of China. Bestway's products are sold throughout the United States by Bestway (USA), Inc.

3. Bestway does not currently know the identities of Defendants John/Jane Doe 1-10. Individually or in combination, Defendants established and/or operate **bestway-outlet.store** (the "**Infringing Site**") that infringes on Bestway's marks and claims to sell Bestway products.

4. This Court has jurisdiction over Bestway's claims, which arise out of Defendants' violation of the Lanham Act. 15 U.S.C. § 1121 ("The district and territorial courts of the United States shall have original jurisdiction...of all actions arising under this chapter, without regard to the amount in controversy or to diversity or lack of diversity of the citizenship of the parties.").

5. This Court has supplemental jurisdiction over Bestway's common law claims. 28 U.S.C. § 1367.

6. Venue is proper because a substantial part of the events or omissions giving rise to the claim occurred in this district. 28 U.S.C. § 1391. The website registrar (Dynadot, LLC

located in San Mateo, CA), and the DNS hosting servers (operated by Cloudflare, Inc headquartered in San Francisco, CA), are both located in this District.

7. Regardless of where Defendants are located, they have purposefully availed themselves of the benefits and protections of the forum by, among other things, contracting with a registrar and DNS host located in this forum and marketing their goods to customers located in this forum and in the United States.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

A. BESTWAY'S MARKS.

8. For over 25 years, Bestway has manufactured and sold consumer products. Bestway offers over 1,000 products in four primary product lines: above-ground pools and portable spas, recreation products, sporting goods, and camping products. Bestway operates globally, including all over the United States.


9. Bestway's products are available for purchase at many large retail stores, including WalMart and Target.

10. Bestway's products are also available for purchase online.

11. Bestway's products are known to consumers throughout the United States to represent genuine, high quality goods.

12. Bestway owns numerous trademarks, many of which were and remain registered with the United States Patent and Trademark Office.


13. Bestway's registered marks that are the subject of this Complaint are set forth below and referred to in this Complaint as the "Infringed Registered Marks":

<u>Mark</u>	<u>Registration</u>	<u>Relevant Class</u>
	U.S. Reg. No. 5994966 Date: 02/05/2020	IC 011. spas in the nature of heated pools; bath tubs; hydromassage bath apparatus; water filtering apparatus; swimming pool chlorinating apparatus; disinfectant dispensers for swimming pools and bath tubs.

<u>Mark</u>	<u>Registration</u>	<u>Relevant Class</u>
		<p>IC 012. boats; oars; air cushion vehicles; launches; canoes.</p> <p>IC 019. props, not of metal, in the nature of frames for supporting swimming pools; non-metal swimming pools; stair treads not of metal.</p> <p>IC 020. inflatable furniture; mattresses; inflatable sofas; air beds, not for medical purposes; air pillows, not for medical purposes; air cushions, not for medical purposes; air mattresses, not for medical purposes; chairs; inflatable publicity objects; sleeping pads, sleeping mats; non-metal and non-paper floating containers for storage; poles, not of metal</p>
BESTWAY	<p>U.S. Reg. No. 5702452</p> <p>Date: 03/19/2019</p>	<p>IC 011. Water filtering apparatus; Swimming pool chlorinating apparatus; Water filtration and purification units and replacement cartridges therefor; Water heaters; Heaters for swimming pools.</p> <p>IC 019. Non-metal above ground swimming pools.</p>
BESTWAY	<p>U.S. Reg. No. 2748177</p> <p>Date: 08/05/2003</p>	<p>IC 012. Rafts and oars.</p> <p>IC 028. Inflatable float mattresses and pads and swim floats for recreational use; inflatable balls, animals, cartoon characters and similar figures, trees, fish, snow tubes, cars, planes, boats, swimming pools and play centers, such as castles and spaceships all for recreational use.</p>
BLOBZTER	<p>U.S. Reg. No. 5414243</p> <p>Date: 02/27/2018</p>	<p>IC 028. US 022 023 038 050. G & S: Water slide and inflatable, floating air bag for aquatic recreational use, Inflatable toys, Swimming floats, Inflatable mats for use in association with water slides, Floating recreational lounge chairs, Floats for recreational use, namely, inflatable floating islands,</p>

<u>Mark</u>	<u>Registration</u>	<u>Relevant Class</u>
		Inflatable pools for recreational use, play swimming pools, Children's recreational equipment, namely, play centers in the nature of inflatable swimming pools with attached or detachable inflatable structures, toys and accessories, Inflatable float mattresses or pads for recreational use, Play mat for use as a water slide, Play equipment for aquatic recreational use, namely, jumping tube gym.
CHEMGUARD	U.S. Reg. No. 5371558 Date: 01/02/2018	IC 011. US 013 021 023 031 034. G & S: Swimming pool chlorinating apparatus.
COOLERZ	U.S. Reg. No. 5095945 Date: 12/06/2016	IC 012. inflatable boats, inflatable kayaks. FIRST USE: 20140501. FIRST USE IN COMMERCE: 20140501 IC 028. inflatable toys, recreational goods and sporting goods namely, swimming floats, floating action skill games, water play grounds in the nature of water slides, party swimming floats; inflatable floating inner tubes, floating recreational lounge chairs; surf mats in the nature of traction pads for surfboards, inflatable trampolines, inflatable towable toys, and stand-up paddle boards
FAST SET	U.S. Reg. No. 3442181 Date: 6/3/2008	IC 019. Non-metal above-ground swimming pool.
FAST SET	U.S. Reg. No. 2743728 Date: 6/29/2003	IC 028. Inflatable pools.
FILL N' FUN	U.S. Reg. No. 76542652	IC 028. US 022 023 038 050. G & S: Play swimming pools.

<u>Mark</u>	<u>Registration</u>	<u>Relevant Class</u>
	Date: 07/19/2005	
FLOWCLEAR	U.S. Reg. No. 5457592 Date: 05/01/2018	IC 001. US 001 005 006 010 026 046. G & S: Chemicals for the purification of water used in swimming pools; Chemical analysis kit for testing swimming pool water; Test strips impregnated with reagents for testing swimming pool water. IC 007. US 013 019 021 023 031 034 035. G & S: Water pumps for swimming pools; Automatic swimming pool cleaners and parts therefor. IC 011. US 013 021 023 031 034. G & S: Water filtering apparatus; Swimming pool chlorinating apparatus; Water filtration and purification units and replacement cartridges therefor; Water heaters; Heaters for swimming pools. IC 020. US 002 013 022 025 032 050. G & S: Non-metal step ladders; Ladders of wood or plastics. IC 021. US 002 013 023 029 030 033 040 050. G & S: Hand-operated, non-electric pool cleaning instruments, namely, pole with interchangeable vacuum and skimmer heads, cleaning head with reusable debris bag, skimmer, angled conversion nozzle, vacuum hose. IC 022. US 001 002 007 019 022 042 050. G & S: Unfitted swimming pool covers; Unfitted tarps for use as a protective layer under neath above ground swimming pools; Swimming pool skimming nets.
FREEZE SHIELD	U.S. Reg. No. 6186013	IC 011. US 013 021 023 031 034. G & S: Filters, heaters and pumps sold in combination for use in spas.

<u>Mark</u>	<u>Registration</u>	<u>Relevant Class</u>
	Date: 10/27/2020	
	U.S. Reg. No. 4940366 Date: 4/19/2016	IC 028. Inflatable toys, floats and recreational devices, namely, inflatable mats, lounges, islands, boats, rafts, balls, puppets, vehicles, structures and animals; toy kayaks; inflatable pools; play swimming pools; water slides; inflatable play centers and activity centers; rideable objects, namely, toy vehicles in the shape of animals and vehicles; floating mattresses, lounges, mats, armchairs, seats and islands, all for recreational use; trampolines; inflatable toys in the nature of jumping tubes and castles; stand-up paddle boards and surfboards.
H2O GO	U.S. Reg. No. 4741874 Date: 5/26/2015	IC 028. Inflatable toys, floats and recreational devices, namely, inflatable mats, lounges, islands, boats, rafts, balls, puppets, vehicles, structures and animals; toy kayaks; inflatable pools; play swimming pools; water slides; inflatable play centers and activity centers; rideable objects, namely, toy vehicles in the shape of animals and vehicles; floating mattresses, lounges, mats, armchairs, seats and islands, all for recreational use; trampolines; inflatable toys in the nature of jumping tubes and castles; stand-up paddle boards and surfboards.
HYDRIUM	U.S. Reg. No. 6064260 Date: 05/26/2020	IC 006. US 002 012 013 014 023 025 050. G & S: Metal swimming pools.
HYDRO FORCE	U.S. Reg. No. 2967876 Date: 6/12/2005	IC 028. Inflatable inner tubes and swim floats for recreational use.
POWER STEEL	U.S. Reg. No. 4827864	IC 006. US 002 012 013 014 023 025 050. G & S: metal swimming pools.

<u>Mark</u>	<u>Registration</u>	<u>Relevant Class</u>
	Date: 10/06/2015	
SIDEWINDER	U.S. Reg. No. 6064215	IC 007. US 013 019 021 023 031 034 035. G & S: Electric pumps for use for swimming pools and spas.
STEEL PRO	U.S. Reg. No. 3006426 Date: 10/11/2015	IC 006. Metal swimming pools
STEEL PRO MAX	U.S. Reg. No. 5628831 Date: 12/11/2018	IC 019. Non-metal swimming pools incorporating a steel support structure
SWIMFINITY	U.S. Reg. No. 6169733 Date: 10/06/2020	IC 007. US 013 019 021 023 031 034 035. G & S: Portable counter-current swimming machines for use in swimming pools to enable swimming in place against an adjustable counter- current, featuring pumps, motor, and adjustable current director outlets.

14. Bestway also adopted the following trademarks for use in connection with its products. Bestway possesses common law trademarks in the marks. Bestway owns the U.S. Trademark Application numbers for these common law trademarks. Bestway's common law marks that are the subject of this Complaint are set forth below and referred to in this Complaint as the "Infringed Common Law Marks":

<u>Mark</u>	<u>Application Serial No. & First Use Date</u>	<u>Relevant Class</u>
AIRJET	Serial No. 90184935 First Use: 05/01/2016	IC 011. US 013 021 023 024 031 034. G & S: Apparatus for water supply and sanitary purposes; baths; spa baths; spa pools; portable spa pools; inflatable spa pools; hot tubs; heated pools; parts and fittings for all the aforesaid goods.
AIRJET PLUS	Serial No. 90184930	IC 011. US 013 021 023 024 031 034. G & S: Apparatus for water supply and sanitary purposes; baths; spa baths; spa pools; portable

<u>Mark</u>	<u>Application Serial No. & First Use Date</u>	<u>Relevant Class</u>
	First Use: 05/01/2020	spa pools; inflatable spa pools; hot tubs; heated pools; parts and fittings for all the aforesaid goods.
CHEMCONNECT	Serial No. 88668958 First Use: 02/01/2019	IC 011. US 013 021 023 024 031 034. G & S: Chlorinating units for swimming pool and spas; Swimming pool and spa chlorinating apparatus
HYDROJET	Serial No. 90184927 First Use: 05/01/2016	IC 011. US 013 021 023 024 031 034. G & S: Bath tubs; Spa baths in the nature of heated pools; Spa pools in the nature of heated pools; Portable spa pools being spas in the nature of heated pools; Inflatable spa pools being spas in the nature of heated pools; Hot tubs; Heated pools being spas in the nature of heated pools.
HYDROJET PRO	Serial No. 90184922 First Use: 05/01/2016	IC 011. US 013 021 023 024 031 034. G & S: Bath tubs; Spa baths in the nature of heated pools; Spa pools in the nature of heated pools; Portable spa pools being spas in the nature of heated pools; Inflatable spa pools being spas in the nature of heated pools; Hot tubs; Heated pools being spas in the nature of heated pools.
SWIM VISTA	Serial No. 90689555 First Use: 11/19/2017	IC 006. US 002 012 013 014 023 025 050. G & S: Metal swimming pools

15. Together, the Infringed Registered Marks and Infringed Common Law Marks are referred to as the “Infringed Marks”.

16. Bestway owns the goodwill associated with the Infringed Marks.

17. Bestway has used the BESTWAY mark in commerce for over 25 years in connection with the manufacture and sale of its goods and the BESTWAY mark has become well known in the inflatable products industry as a source for high quality products.

18. Due to the COVID-19 pandemic causing many people to stay home, demand for Bestway’s pools has increased drastically causing them to be sold out at times since June, 2020.

B. INFRINGING SITE.

19. Defendants set up, established, or operate a website that infringes upon Bestway's marks.

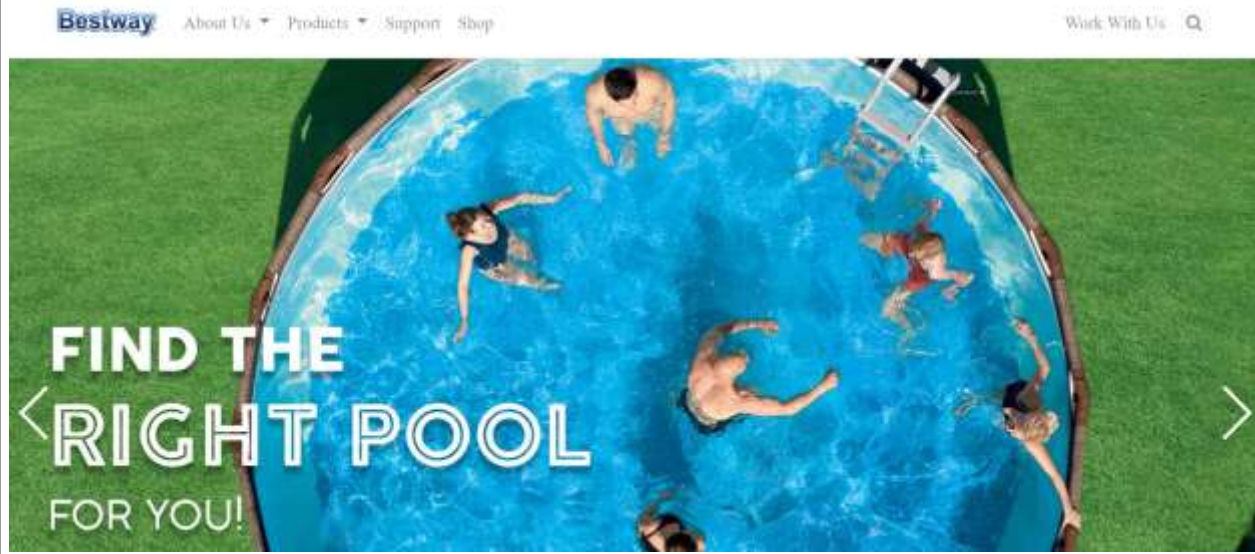
20. The Infringing Site currently known to Bestway is bestway-outlet.store.

21. The Infringing Site purports to sell numerous Bestway products, under Bestway's Marks, at significantly reduced prices.

22. Defendants intentionally designed the Infringing Site to mimic the official Bestway site (bestwaycorp.us). The Infringing Site contains the same look and feel as the official site, containing the same logo (U.S. Reg. No. 5994966) on the top, same image appearing on the Home Page, and same white, dark grey/black, and blue color scheme:









Infringing Site



Official Bestwaycorp.us Site

23. The Infringing Site also uses multiple Bestway product photographs, presumably copied directly from Bestway's own authorized website, as if they were available for purchase on the Infringing Site. For example:

Infringing Site	Official Bestway Site
 <p data-bbox="214 1449 776 1522">https://www.bestway-outlet.store/images/photos/421_p03791.png</p>	 <p data-bbox="824 1444 1404 1589">https://www.bestwaycorp.us/FileUpload/US/WebPage/994cf54c-8b7e-497f-8594-b5a9f8dd9da3/images/product_03_2019-03-06/product_03@3x.jpg</p>

Infringing Site	Official Bestway Site
 <p data-bbox="224 575 764 684">https://www.bestway-outlet.store/images/photos/7_bw57376gb-15ft-x-33in-fast-set-pool-set-1_02.jpg</p>	 <p data-bbox="824 564 1403 709">https://www.bestwaycorp.us/FileUpload/US/WebPage/fbf27bc8-143f-4286-ab5d-a162363f2db0/images/CategoryB-Image1-AGP.jpg</p>
 <p data-bbox="212 1050 776 1157">https://www.bestway-outlet.store/images/photos/70_bw56401-21-15ft-hydrium-splasher-round-pool-set-1.jpg</p>	 <p data-bbox="824 1050 1403 1157">https://www.bestwaycorp.us/FileUpload/US/WebPage/fbf27bc8-143f-4286-ab5d-a162363f2db0/images/steelPro.jpg</p>
 <p data-bbox="207 1562 786 1703">https://www.bestway-outlet.store/images/photos/37_bw56886gb-13ft-3in-power-steel-rattan-rectangular-pool-set-1_02.jpg</p>	 <p data-bbox="824 1554 1403 1698">https://www.bestwaycorp.us/FileUpload/US/WebPage/fbf27bc8-143f-4286-ab5d-a162363f2db0/images/CategoryB-Image3(backimage)-AGP.jpg</p>

Infringing Site	Official Bestway Site
 <p data-bbox="215 724 773 829">https://www.bestway-outlet.store/images/photos/299_bw52254-hydro-splash-jump-rope-sprinkler-1_01.jpg</p>	  <p data-bbox="826 724 1403 829">https://service.bestwaycorp.us/handlers/image.php?file_id=3367669&width=400&height=400&flag=4</p>
 <p data-bbox="206 1260 784 1365">https://www.bestway-outlet.store/images/photos/417_p6h624ass14_a.jpg</p>	 <p data-bbox="826 1249 1403 1354">https://service.bestwaycorp.us/handlers/image.php?file_id=3883921&width=400&height=400&flag=4</p>

24. The Infringing Site unlawfully uses one or more of Bestway's Marks in connection with the sale or purported sale of Defendants' products. *See* Exhibit A (list of the Infringed Marks and examples of Defendants' infringement with those marks).

25. On information and belief, Defendants are not selling legitimate Bestway products.

26. Defendants appear to be taking advantage of the high demand and low supply relative to above-ground swimming pools caused by the COVID-19 pandemic.

27. Upon information and belief, the only way to “purchase” one of the products from the Infringing Sites is to use PayPal.

28. Defendants are misleading consumers into believing they are entering into legitimate transactions with Bestway to purchase Bestway products.

29. On June 30, 2021, Bestway received notice via Bestway’s social media page from a customer. The post stated:

There is a fraudulent website, bestway outlet. Im not sure if you are aware of it. Intex had the same thing happen except it was intex outlet. A lot of your legitimate customers are being scammed out of money thinking it's really your online store. Just letting you and other consumers know to be wary. The website looks legit until you notice the prices and the checkout only allows PayPal. So be on the lookout for that.

**COUNT I: VIOLATION OF 15 U.S.C. § 1114 –
TRADEMARK INFRINGEMENT AND COUNTERFEITING OF FEDERALLY
REGISTERED MARKS**

30. Bestway incorporates herein all paragraphs of this Complaint as if set forth in full.

31. Defendants used and are continuing to use the Infringed Registered Marks in commerce in connection with the offering for sale of products that is likely to cause, and has in fact caused, confusion, mistake, or deception.

32. Defendants have and are continuing to reproduce, counterfeit, copy, and colorably imitate the Infringed Registered Marks and apply such reproduction, copy, and colorable imitation to advertisements intended to be used in commerce in connection with the offering for sale of goods in a way that is likely to cause confusion, mistake, or deception.

33. Defendants do not have permission to use the Infringed Registered Marks.

34. The actions alleged in this Complaint were committed with knowledge that such imitation of the Infringed Registered Marks would, and was intended to, cause confusion, to cause mistake, or to deceive.

35. Defendants’ use of Infringed Registered Marks was and is willful and constitutes use of counterfeit marks.

36. As a result of the unlawful conduct of Defendants, including the use of the Infringed Registered Marks, Bestway has been damaged, has suffered irreparable harm, and is likely to continue to suffer irreparable harm unless Defendants' actions are enjoined by this Court.

37. Bestway is entitled to its actual damages (or in the alternative, statutory damages pursuant to 15 U.S.C. § 1117(c)), an amount equal to three times Defendants' profits following equitable accounting, plus interest, costs, and attorneys' fees.

**COUNT II: VIOLATION OF 15 U.S.C. § 1125(a) –
FALSE DESIGNATION OF ORIGIN AND
FALSE OR MISLEADING DESCRIPTION OF FACT**

38. Bestway incorporates herein all paragraphs of this Complaint as if set forth in full.

39. Defendants' actions as set forth in this Complaint and Defendants' unlawful use of the Infringed Marks, individually and in combination, violate 15 U.S.C. § 1125(a).

40. Defendants are aware that Bestway owns the Infringed Marks.

41. Defendants used and are continuing to use the Infringed Marks without approval and in a manner that is likely to cause confusion.

42. Defendants used and are continuing to use the Infringed Marks, without approval and in a manner that is deceptive as to the affiliation, connection, or association of Defendants with Bestway.

43. Defendants used and are continuing to use words, terms, and names likely to confuse or deceive individuals into believing that the goods Defendants are purporting to sell come from Bestway, or that Bestway sponsors or approves of the goods.

44. Defendants used and are continuing to use words, terms, names, false or misleading descriptions of fact, and false or misleading representations of fact in commercial advertising or promotion that misrepresents the nature, characteristics and qualities of Defendants' goods and commercial activities.

45. For example, through the Infringing Site, Defendants are:

a. Using the same images as Bestway to promote their products;

- b. Using the same trade names as Bestway to promote their produces;
- c. Replicating the look and feel of Bestway's official site including by using the same color scheme and product images; and
- d. Using confusing and deceptive text implying that the site is associated with Bestway including, for example: "If you're unsure which replacement part your Lay-Z-Spa® requires, contact our dedicated Bestway® Aftersales team who will happily identify the problem and advise you on how to fix it." (<https://www.bestway-outlet.store/products-371>).

46. Defendants' actions were taken with knowledge and with the intent to cause confusion or mistake and to deceive the public as to the source, origin, sponsorship or approval of Defendants' products and website.

47. Defendants acted with knowledge and with the intent that their actions would confuse third parties into believing they were purchasing genuine Bestway products or purchasing products from Bestway.

48. As a result of the illegal, willful, and unauthorized conduct of Defendants, Bestway has incurred losses to its business and to the value of its marks, lost sales, loss of goodwill, and other losses for which Bestway is entitled to money damages pursuant to 15 U.S.C. § 1125.

49. Bestway is entitled to its actual damages, an amount equal to Defendants' profits following equitable accounting, plus interest, costs, and attorneys' fees.

**COUNT III: VIOLATION OF 15 U.S.C. § 1125(d) –
CYBERPIRACY**

50. Bestway incorporates herein all paragraphs of this Complaint as if set forth in full.

51. Defendants registered, are trafficking in, and are using a domain name (bestway-outlet.store) that is, and was at the time of registration of the domain name, identical or confusingly similar to the distinctive and famous Bestway mark.

52. At all times, Defendants acted with a bad faith intent to profit from the Bestway mark as evidenced by:

- a. Defendants have no trademark or other intellectual property rights in the domain name;
- b. The domain name does not consist of Defendants' legal name;
- c. Upon information and belief, Defendants have never previously used the domain name in connection with a bona fide offering of any goods or services;
- d. Defendants do not have a bona fide noncommercial or fair use of the mark; and
- e. Defendants' intent was and is to divert customers to the Infringing Site by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site.

53. Defendants did not have reasonable grounds to believe that their use of the domain name was lawful or otherwise constituted fair use.

54. Bestway is entitled to its actual damages and profits, (or statutory damages pursuant to 15 U.S.C. § 1117(d)), and a court order transferring the domain name to Bestway pursuant to 15 U.S.C. § 1125(d)(1)(C).

**COUNT IV: COMMON LAW TRADEMARK INFRINGEMENT
AND UNFAIR COMPETITION**

55. Bestway incorporates herein all paragraphs of this Complaint as if set forth in full.

56. Defendants' acts as described in this Complaint amount to common law trademark infringement and unfair competition.

57. Defendants are engaged in unfair and unethical business practices that are harmful to Bestway and the general public.

58. For purposes of deceiving the public, Defendants are simulating the name, symbols, or devices employed by Bestway (including the Infringed Marks), thus falsely inducing

1 consumers to pay Defendants money under the mistaken belief the consumer is entering into a
2 transaction with Bestway and will receive Bestway product(s) in return.

3 59. Defendants are engaged in the practice of “passing off” or “palming off”
4 Defendants’ products as if they were manufactured and sold by Bestway.

5 60. Defendants acted with the intent to engage in common law trademark infringement
6 and unfair competition, and have done so in a fraudulent, malicious, willful and wanton manner,
7 and in wanton disregard of Bestway’s rights.

8 61. As a result of Defendants’ illegal conduct, Bestway has been damaged, has
9 suffered irreparable harm, and is likely to continue to suffer irreparable harm unless Defendants’
10 actions are enjoined by this Court.

11 62. Bestway is entitled to its actual damages, an amount equal to Defendants’ profits
12 following equitable accounting, plus interest, costs, and attorneys’ fees.

13 **COUNT V: INJUNCTION**

14 63. Bestway incorporates herein the above paragraphs as though fully set forth herein.

15 64. Injunctive relief is specifically authorized by 15 U.S.C. § 1116(a) “to prevent the
16 violation of any right of the registrant of a mark registered in the Patent and Trademark Office or
17 to prevent a violation under [15 U.S.C. § 1125(a)]”.

18 65. There is no legal remedy available to fully compensate Bestway for the ongoing
19 damage caused by Defendants.

20 66. Injunctive relief prohibiting Defendants, and each one of them, from continuing to
21 violate Bestway’s rights will mitigate the irreparable harm already suffered by Bestway.

22 **REQUEST FOR RELIEF**

23 WHEREFORE, Bestway respectfully requests that this Honorable Court:

24 1) Issue a permanent injunction prohibiting Defendants and each of their agents,
25 servants, employees, attorneys, and any other persons who are in active concert or participation
26 with any of them from:
27
28

- a. Using the “Bestway” name, using any of the Infringed Marks or imitating the Infringed Marks in connection with the offering for sale or advertising of any products;
 - b. Engaging in any action to pass off Defendants’ products as Bestway products;
 - c. Engaging in further actions to interfere with Bestway’s rights in its marks or in damaging Bestway’s goodwill or reputation;
 - d. Continuing to operate the Infringing Site, and any similar site(s);
- 2) Order that the domain name bestway-outlet.store be transferred to Bestway;
 - 3) Require Defendants to account for their profits;
 - 4) Award Bestway an amount equal to three times Defendants’ profits;
 - 5) Award Bestway its actual damages, or in the alternative, statutory damages pursuant to 15 U.S.C. § 1117(c) and (d);
 - 6) Award Bestway the costs associated with bringing this action; and
 - 7) Award Bestway reasonable attorneys’ fees.

Dated: July 1, 2021

Respectfully submitted,

DICKINSON WRIGHT PLLC

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